

THE HONORABLE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ENROUTE SYSTEMS CORP., a Delaware  
corporation,

Plaintiff,

v.

ARRIVALSTAR S.A. and MELVINO  
TECHNOLOGIES, LTD., foreign  
corporations,

Defendants.

Case No. \_\_\_\_\_

COMPLAINT FOR DECLARATORY  
JUDGMENT

**COMPLAINT**

This is a declaratory judgment action brought under 28 U.S.C. §§ 2201 and 2202 by Plaintiff Enroute Systems Corporation (“Enroute”) against Defendants ArrivalStar S.A. (“ArrivalStar”) and Melvino Technologies, Limited (collectively referred to as “Defendants”), seeking a declaration that Enroute has not violated any U.S. patent rights held by Defendants.

**PARTIES**

1. Enroute is a Delaware corporation with a principal place of business at 2821 Northup Way, Suite 275, Bellevue, Washington 98004.

2. Enroute designs and develops innovative shipment management software solutions for businesses.

COMPLAINT FOR DECLARATORY JUDGMENT– 1  
Case No. \_\_\_\_\_

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3. Upon information and belief, Defendant ArrivalStar S.A. is a corporation organized under the laws of Luxembourg and having offices at 67 Rue Michel, Welter L-2730, Luxembourg.

4. Upon information and belief, Defendant Melvino Technologies Limited is a corporation organized under the laws of the British Virgin Island of Tortola, having a principal place of business at P.O. Box 3152, RG Hodge Building, Road Town, Tortola, British Virgin Islands.

5. Upon information and belief, Defendants do not manufacture or sell any products and are in the business of licensing patent rights.

### **JURISDICTION AND VENUE**

6. This is an action for the resolution of an existing conflict under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57. An actual and justiciable controversy exists concerning the rights of and legal relationship between Enroute and Defendants.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1338(a) because the underlying causes of action arise under the patent laws of the United States.

8. This Court has personal jurisdiction over Defendants pursuant on at least the following grounds:

- a. Defendants have purposefully availed themselves of the benefits and protections of this State's laws;
- b. Defendants have filed patent litigation suits in this District (e.g., Case No. 2:2006-cv-01030 and Case No. 2:2010-cv-01249), therefore, reasonably anticipating being haled into court in this District;
- c. Defendants have purposefully directed their activities at Enroute and this State, and Enroute's claims arise out of and are directly related to Defendants'

COMPLAINT FOR DECLARATORY JUDGMENT– 2  
Case No. \_\_\_\_\_

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activities; and

d. This Court's assertion of personal jurisdiction over Defendants upholds traditional notions of fair play and substantial justice.

9. Venue is proper in this Court under the provisions of 28 U.S.C. § 1391.

### **THE ARRIVALSTAR PATENTS**

10. Defendants claim to be the owners, by assignment, of U.S. Patent No. 6,904,359 (Jun. 7, 2005); U.S. Patent No. 6,486,801 (Nov. 26, 2002); U.S. Patent No. 6,714,859 (Mar. 30, 2004); U.S. Patent No. 6,317,060 (Nov. 13, 2001); U.S. Patent No. 6,748,320 (Jun. 8, 2004); U.S. Patent No. 6,952,645 (Oct. 4, 2005); U.S. Patent No. 7,030,781 (Apr. 18, 2006); and U.S. Patent No. 7,400,970 (Jul. 15, 2008) (collectively referred to as "the ArrivalStar Patents"). Generally, the ArrivalStar Patents relate to vehicle tracking and status messaging systems.

11. On information and belief, Defendants have asserted one or more of the ArrivalStar Patents against various parties in over seventy-five separate patent litigation suits.

12. On information and belief, Defendants do not manufacture or sell any products that embody the teachings of the ArrivalStar Patents.

13. On information and belief, Defendants are solely in the business of using the threat of litigation to negotiate licensing agreements with alleged patent infringers.

### **COMMUNICATIONS BETWEEN DEFENDANTS AND ENROUTE**

14. On December 20, 2010, Defendants, through counsel, sent a letter (the "December 20th Letter", attached hereto as Exhibit A) addressed to Enroute's CEO, Keith McCall, which was received at Enroute's principal business address in Bellevue, WA. In this letter, Defendants claimed ownership of the ArrivalStar Patents, alleged that Enroute's ShipIt! Analytics and Portal software infringes the ArrivalStar Patents, and proposed "to offer Enroute a license to continue practicing the inventions claimed in the ArrivalStar

1 Patents under highly favorable terms.” Counsel for Defendants set a deadline of January 15,  
 2 2010 for Enroute’s response. If Enroute did not meet this deadline, Defendants’ counsel  
 3 stated, “[our] Canadian lawyers representing the Canadian patents will proceed after its own  
 4 infringement . . . and we will proceed accordingly here in the United States.”

5 15. On February 14, 2011, counsel for Enroute responded to Defendants’ December  
 6 20th Letter (the “February 14th Response”, attached hereto as Exhibit B), stating that none of  
 7 the ArrivalStar Patents apply to Enroute’s business or intended business. Enroute’s counsel  
 8 requested that ArrivalStar identify specific claims that it claims apply to Enroute’s business  
 9 and explain why the claims allegedly infringe.

10 16. On March 4, 2011, counsel for Defendants responded by letter to Enroute’s  
 11 February 14th Response (attached hereto as Exhibit C). In the letter, Defendants’ counsel  
 12 declined to identify any specific claims that are allegedly infringed by Enroute. Instead,  
 13 Defendants’ counsel urged Enroute to “reconsider the benefits of accepting the license we  
 14 propose” and to investigate the “more than 75 lawsuits [ArrivalStar has] filed as [ArrivalStar  
 15 is] no stranger to all levels of enforcing their patents.” Without a counter offer from Enroute  
 16 before March 15, 2011, Defendants’ counsel threatened to “proceed in the formal arena.”

17 17. Enroute does not operate vehicles nor does it coordinate the routing of vehicles.  
 18 None of Enroute’s products, including the ShipIt! Analytics and Portal software, practice  
 19 every limitation of any claim of the ArrivalStar Patents.

20 18. On information and belief, Defendants have never inspected any of Enroute’s  
 21 products, including the ShipIt! Software. A pre-threat investigation would have revealed to  
 22 Defendants that Enroute’s ShipIt! Software does not infringe the ArrivalStar Patents.

23 19. On information and belief, Defendants have failed to properly investigate and to  
 24 allege infringement of the ArrivalStar Patents, and are attempting to force Enroute into an  
 25 unnecessary and onerous license agreement that would wrongfully and maliciously interfere  
 26 with Enroute’s business.

COMPLAINT FOR DECLARATORY JUDGMENT– 4  
 Case No. \_\_\_\_\_

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1       20.     Enroute has not violated any of Defendants' purported rights in the ArrivalStar  
2 Patents or otherwise and is not liable to Defendants for patent infringement or any other  
3 federal, state, or common law cause of action, in law or in equity.

4                   **COUNT I (Declaratory Judgment of Noninfringement)**

5       21.     Enroute incorporates by reference paragraphs 1 through 20, as though fully set  
6 forth herein.

7       22.     Defendants allege that Enroute's ShipIt! Analytics and Portal software infringes  
8 one or more of the ArrivalStar Patents. Enroute maintains that it has not and does not  
9 directly, indirectly, contributorily and/or by inducement infringe any valid and enforceable  
10 claim of any of the ArrivalStar patents, either literally or under the doctrine of equivalents.

11       23.     An actual and substantial controversy exists between Defendants and Enroute  
12 regarding the non-infringement of the ArrivalStar Patents.

13       24.     Enroute is entitled to declaratory judgment that it has not infringed, and is not  
14 infringing, any valid and enforceable claim of any of the ArrivalStar Patents.

15                   **PRAYER FOR RELIEF**

16                WHEREFORE, Enroute prays for:

17       1.     A declaration that Enroute has not infringed, and is not infringing, any valid and  
18 enforceable claim of any of the ArrivalStar Patents, either directly or indirectly, literally or  
19 under the doctrine of equivalents, and that Enroute has neither contributed to, nor induced  
20 infringement thereof by another;

21       2.     A permanent injunction enjoining Defendants, and its members, officers,  
22 employees, agents, affiliates, and assignees from asserting that Enroute infringes any of the  
23 specified ArrivalStar Patents;

24       3.     An award of Enroute's costs, attorneys' fees, and expenses pursuant to 35 U.S.C.  
25 § 285; and  
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COMPLAINT FOR DECLARATORY JUDGMENT– 5  
Case No. \_\_\_\_\_

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1 4. Such other and further relief as the Court deems just and proper.

2  
3 Dated this 15th day of March, 2011.

4 SCHWABE, WILLIAMSON & WYATT, P.C.

5  
6 By: s/ Johnathan E. Mansfield  
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12 Trial Attorney: Johnathan E. Mansfield

13 Attorneys for Enroute Systems Corporation  
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COMPLAINT FOR DECLARATORY JUDGMENT– 6  
Case No. \_\_\_\_\_

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CERTIFICATE OF SERVICE - 1  
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